IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11592 of 2002
With
SPECIAL CIVIL APPLICATION No. 11400 of 2002
With
SPECIAL CIVIL APPLICATION No. 11401 of 2002
With
SPECIAL CIVIL APPLICATION No. 11403 of 2002
With
SPECIAL CIVIL APPLICATION No. 11404 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ Sd/-

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1.	Whether Reporters of Local Papers may be allowed to see the judgment ?	**YES**
2.	To be referred to the Reporter or not ?	**NO**
3.	Whether their Lordships wish to see the fair copy of the judgment ?	**NO**
4.	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	**NO**
5.	Whether it is to be circulated to the civil judge ?	**NO**

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PATEL SAKARBEN MANILAL & OTHERS - Petitioners
Versus
BUDHABHAI CHHAGANBHAI PATEL & 4 - Respondents

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Appearance :
MR RN SHAH for Petitioners.
MS ROOPAL PATEL for Respondent No. 2.
MR VIBHUTI NANAVATI for Respondent No. 4.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 02/11/2007
COMMON ORAL JUDGMENT

1. This group of petitions involves common issue and hence, all these petitions are being disposed of by this common judgment and order.

2. The petitioners are the original applicants in Motor Accident Claim Petitions and they have filed those petitions before the learned Motor Accident Claims Tribunal (Main), Ahmedabad (Rural) for getting compensation for the accident which took place on 05.04.1991 at Dehgam – Ahmedabad Road, as per the say of the petitioners. The S.T. Corporation as well as United India Insurance Company Limited, respondent Nos. 2 & 4 herein, filed their written statements and in the written statement, the respondent No.4 has taken a contention that MACT (Main), Ahmedabad (Rural) has no jurisdiction to entertain the said claim petitions. The evidence of the claimants have already been recorded and closure purshish were also filed by them. The driver of the S.T. Corporation was also examined in the month of February, 2002. On the basis of the evidence of the driver of the S.T. Corporation, the respondent No.4 has given an application before the Tribunal to transfer all those claim petitions to the MACT, Ahmedabad

City and/or the same be returned to the claimants for presentation to the appropriate Court, inter alia, contending that the accident took place at Dehgam – Ahmedabad Road near Hanspuri Muthiya village. As per the provisions contained in Motor Vehicle Act, 1988 which was in force, the claim petition was to be filed before the MACT in whose jurisdiction the accident took place. Since the place of accident is within the limit of Ahmedabad Municipal Corporation, only MACT, Ahmedabd has jurisdiction to decide the said claim petitions.

3. The applicants – present petitioners have filed their objections to the applications moved by the Insurance Company and they have opposed the prayer made in the said applications. They have also denied the allegations that the accident took place within the local limits of Ahmedabad Municipal Corporation.

4. The MACT, Ahmedabad (Rural), Ahmedabad vide his order dated 12.09.2002 allowed the applications and passed an order that MACT, Amedabad (Rural) has no jurisdiction to try and decide the claim petitions because the accident took place in the Municipal area of Ahmedabad which does not fall within the jurisdiction of the Tribunal and hence, claim petitions were ordered to be returned to the petitioners for

presentation to the appropriate Court under Order VII, Rule 11 (2) of the Civil Procedure Code.

5. It is this order which is under challenge in the present group of petitions.

6. Mr. R. M. Shah, learned advocate appearing for the petitioners in all these petitions has submitted that the order passed by the Claims Tribunal allowing the said applications of the respondent No.4 and returning the claim petitions to the petitioners for presentation to the appropriate Court is ex-facie illegal, against the provisions of statutes and hence, the said orders are required to be quashed and set aside. He has further submitted that while passing the impugned order, the Tribunal has not considered and/or dealt with the objections submitted by the petitioners. The accident took place at Dehgam – Ahmedabad Rural near village Hanspuri Muthiya and village Hanspuri is in Tal. Daskroi, Dist. Ahmedabad and village Muthiya is in Tal. City, Dist. Ahmedabad which are in Ahmedabad District Panchayat and only for the purpose of police enquiry, jurisdiction was with Gandhinagar Police Station. Thus, MACT (Main), Ahmedabad Rural has the jurisdiction and hence the findings given by the Tribunal that MACT (Main), Ahmedabad Rural has no jurisdiction is ex-facie illegal and against the evidence on

record and the same is required to be quashed and set aside. He has further submitted that the applications were made by the respondent No.4 after expiry of the period of 11 years from the date of filing of the claim petitions. The evidence of the petitioners was already over and the evidence of the driver of the S.T. Corporation was also over and thereafter, the applications were moved with regard to transfer of the claim petitions. He has further submitted that as per the amended provisions contained in the Motor Vehicles Act, the petition can be filed even at the place where the applicant is residing and hence, the impugned order dated 12.09.2002 is required to be quashed and set aside. Mr. Shah has, therefore, submitted that it is not just and proper on the part of the Tribunal to transfer the cases after the expiry of the period of 11 years.

7. Mr. Vibhuti Nanavati, learned advocate appearing for the Insurance Company, on the other hand, has supported the order passed by the Tribunal. The accident took place in 1991 and hence, the old provisions contained under Section 166 of the Act would cover the case. Since the accident took place within the local jurisdiction of the Ahmedabad Municipal Corporation, only Ahmedabad City Civil Court has the jurisdiction to entertain the claim petitions and hence, the claims Tribunal has rightly returned the claim petitions to the

petitioners for their presentation before the appropriate Court. He has, therefore, submitted that no interference be called for in the impugned order of the Tribunal and the petitions deserve to be dismissed.

8. Having heard learned advocates appearing for the respective parties and after having gone through the order passed by the Claims Tribunal, the Court is of the view that the applications were moved by the respondent No.4 after expiry of the period of about 11 years. By that time, the evidence of the petitioners – original applicants was over and the evidence of the driver of the S.T. Corporation was also recorded. At that point of time, applications for transfer of the claim petitions were moved. Even if there is a dispute with regard to the jurisdiction, since it is belatedly raised and that too at the fag end of the trial when all these claim petitions were likely to be disposed of, it is not just and proper for the Claims Tribunal to entertain such application. Even otherwise, no prejudice would be caused to the Insurance Company whether the award was passed by the Claims Tribunal, Ahmedabad (Rural) or by the City Civil Court. Had the issue regarding jurisdiction been raised at the initial stage and the Court after proper adjudication has taken the decision, such decision might have been justified, but after 11 years, the Court should not have entertained

such applications. Even otherwise, there is a controversy with regard to the jurisdiction. Without going into this controversy, the Court is of the view that since evidence was already over and the matter is at the fag end of trial and even after passing of the impugned order in 2002, no matter is transferred and the record and proceedings of the claim petitions are still with the MACT, Ahmedabad Rural, it is in the fitness of the things that MACT, Ahmedabad Rural, Ahmedabad shall proceed with the Claim Petitions and finally dispose it of the same in accordance with law. The Motor Accident Claims Tribunal, Ahmedabad Rural, Ahmedabad is, therefore, directed to decide all these claim petitions as expeditiously as possible and preferably within the period of 6 months from the date of receipt of the writ of this Court or certified copy of this order, whichever is earlier. It goes without saying that the claim petitions of other claimants who have not challenged the impugned order, shall also be heard and disposed off by the MACT (Main) Ahmedabad Rural, Ahmedabad.

9. All these petitions are accordingly disposed of. Rule is made absolute to the aforesaid extent without any order as to costs. Copy of this order be placed in the file of each of these petitions.

Sd/-
[K. A. PUJ, J.]

Savariya